

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

LELAND DULANI HARRIS,

Plaintiff,

v.

MARGARET GILBERT,

Defendant.

CASE NO. C16-0154JLR

ORDER ADOPTING REPORT  
AND RECOMMENDATION AND  
DISMISSING ACTION WITH  
PREJUDICE

**I. INTRODUCTION**

This matter comes before the court on the Report and Recommendation of United States Magistrate Judge Brian A. Tsuchida (R&R (Dkt. # 24)), and Petitioner Leland Dulani Harris' objections thereto (Obj. (Dkt. # 25)). Having carefully reviewed all of the foregoing, along with all other relevant documents and the governing law, the court ADOPTS the Report and Recommendation, DENIES Mr. Harris's petition for a writ of habeas corpus (Pet. (Dkt. # 6)) and DISMISSES this action with prejudice.

## II. STANDARD OF REVIEW

A district court has jurisdiction to review a Magistrate Judge's report and recommendation on dispositive matters. *See* Fed. R. Civ. P. 72(b). "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." *Id.* "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). The court reviews de novo those portions of the report and recommendation to which specific written objection is made. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). "The statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo if objection is made, but not otherwise." *Id.* When no objections are filed, the court need not review de novo the report and recommendation. *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005).

## III. DISCUSSION

Mr. Harris objects to the Report and Recommendation in its entirety. (*See generally* Obj.)

With the exception of Mr. Harris's objection to Magistrate Judge Tsuchida's conclusion that Mr. Harris is not entitled to a certificate of appealability, all of Mr. Harris' objections rehash arguments contained in his Petition (Dkt. # 6) and Reply to Respondent's Answer (Dkt. # 23). None of Mr. Harris's objections raise any issues that were not addressed by Magistrate Judge Tsuchida's Report and Recommendation. The court has thoroughly examined the record before it and finds the Magistrate Judge's

1 reasoning persuasive in the light of that record. The court therefore independently rejects  
2 those arguments for the same reasons as Magistrate Judge Tsuchida. As to the certificate  
3 of appealability issue, the court concurs with Magistrate Judge Tsuchida that Mr. Harris  
4 is not entitled to a certificate of appealability because he has not made "a substantial  
5 showing of the denial of a constitutional right." *See* 28 U.S.C. § 2253(c)(3).

#### 6 IV. CONCLUSION

7 For the foregoing reasons, the court hereby ORDERS as follows:

8 (1) The court ADOPTS Magistrate Judge Tsuchida's Report and Recommendation  
9 (Dkt. # 24) in its entirety;

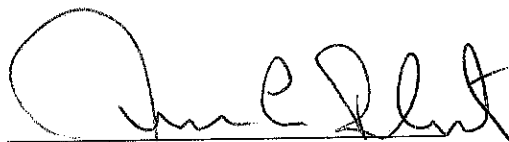
10 (2) The court DENIES Mr. Harris's petition for a writ of habeas corpus (Dkt. # 6);

11 (3) The court DISMISSES Mr. Harris's petition and this action with prejudice;

12 (4) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in  
13 United States District Courts, the court DENIES a certificate of appealability with respect  
14 to all grounds for relief asserted in this federal habeas action; and

15 (5) The court DIRECTS the Clerk to send copies of this Order to all counsel of  
16 record and to Magistrate Judge Tsuchida.

17 Dated this 27<sup>th</sup> day of February, 2017.

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19 JAMES L. ROBART  
United States District Judge  
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